

**No. 9/7/86-6Lab./7456.**—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s, (i) The Haryana State Federation of Consumers Cooperative Wholesale Stores Ltd., (Confed), Chandigarh, (ii) Baroda Cooperative Agriculture Credit Society, Baroda, (iii) Sonapat Central Cooperative Bank Ltd., Sonapat :—

**BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK**  
**Reference No. 46 of 84**

*between*

**SHRI BED SINGH, WORKMAN AND THE MANAGEMENT OF M/S. (i) THE HARYANA STATE FEDERATION OF CONSUMERS COOPERATIVE WHOLESALE STORES LTD., (CONFED), CHANDIGARH, (ii) BARODA COOPERATIVE AGRICULTURE CREDIT SOCIETY, BARODA, (iii) SONEPAT CENTRAL COOPERATIVE BANK LTD., SONEPAT**

**Present :—**

Shri S. S. Gupta, A. R., for the workman.

Shri M. C. Bhardwaj, A. R. for the management.

#### **AWARD**

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute, between the workman Shri Bed Singh and the management of M/s. (i) The Haryana State Federation of Consumers Cooperative Wholesale Stores Ltd., (Confed), Chandigarh, (ii) Baroda Cooperative Agriculture Credit Society Baroda, (iii) Sonapat Central Cooperative Bank Ltd., Sonapat, to this Court, for adjudication,—*vide* Haryana Government Gazette, Notification No. 13970—75, dated 3rd April, 1984 :—

Whether the termination of services of Shri Bed Singh is justified and in order? If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was appointed as Salesman by respondent No. 1 on 28th August, 1981 on a consolidated salary of Rs. 350 per mensem and that in the year 1983 the respondent No. 1 through its District Manager transferred the services of the applicant to Baroda Co-operative Agriculture Credit Society Baroda with the consent of the petitioner and that he was told at that time that he was being sent on deputation and shall remain an employee of the respondent No. 1 on the same terms and conditions and that the said transfer was illegal and unjustified, because the District Manager of respondent No. 1 had no authority to effect such a transfer and furthermore the said transfer was an unfair labour practice hit by the provisions of the Industrial Disputes Act, 1947, because the intention of respondent No. 1 was to get rid of the petitioner in a malafide manner, as through the agency of the Society his services terminated,—*vide* order dated 17th September, 1983 and as such, the said order of termination being retrenchment was brought about without complying with the mandatory provisions of section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act). So, he has prayed for reinstatement with continuity of service and full back wages.

3. The original reference was made against M/s. The Haryana State Federation of Consumers Cooperative Wholesale Stores Ltd. (Confed), Chandigarh (hereinafter referred to as the Federation), but subsequently as an application made by the petitioner two more respondents were added (hereinafter referred to as the Society and the Bank).

4. In the reply filed by the respondent No. 1, preliminary objections taken are that the petitioner was not an employee of the respondent at the time of termination of his services and as such, the reference is bad for non-joinder of proper parties. On merits, it is alleged that the Registrar Co-operative Societies, Haryana, Chandigarh ordered the transfer of retail outlets of the answering respondent to mini banks, district Sonapat and so all the outlets of District Sonapat were transferred as such alongwith its staff without any protest and the petitioner joined the services of the mini bank of village Baroda, which was registered Cooperative Society like answering respondent. The transfer was brought about on 17th September, 1983.

5. Similarly in the reply filed by the newly added respondent, it is alleged that after his transfer to the mini bank, the respondent Society passed a fresh resolution regarding appointment of the petitioner in the Baroda Cooperative Agriculture Credit Society, Baroda and the said appointment was made on purely temporary basis and so, there is no question of the petitioner being a transferred employee from respondent No. 1. It is further alleged that since the said Society was incurring heavy losses, so much so that the profit to the Society was even less than the salary of the petitioner, the retail outlets were closed and there was no other place where the petitioner could be adjusted and as such, the respondent/Society was constrained to dispense with the services of the petitioner, so, it is alleged that under these circumstances, the provisions of section 25F do not come into play.

6. On the pleadings of the parties, the following issues were settled for decision by me on 23rd January, 1985 :—

1. Whether the workman was not an employee of the respondent on the date of alleged termination of his services onus objected to? OPR.
2. Whether the reference is bad for non-joinder of proper party? OPR.
3. As per terms of reference.



5. The petitioner himself appeared as WW-1 and the respondent examined Shri Ram Lal, General Manager, MW-2 Shri Ram Kumar, Secretary.

6. The learned Authorised Representatives of the parties heard.

Issues No. 1 and 2.

7. These issues have become redundant, because the petitioner has since arrayed respondent No. 2 and 3 as parties in the present reference. Admittedly, the petitioner was not an employee of respondent No. 1 after his transfer to the mini bank known as Baroda Cooperative Agriculture Credit Society, Baroda. So, both these issues are answered against the respondent.

Issue No. 3.

8. The learned Authorised Representative of respondent No. 1 Shri M. C. Bhardwaj, contended that in view of the provisions of the section 25(FF) sub-clause (b), the respondent No. 1 is not liable for any action taken against the petitioner. It is not in dispute that the services of the petitioner were transferred to the Mini Bank on the same terms and conditions by the Registrar Co-operative Societies,—vide his letter Ex. M-1. The said letter is dated 21st July, 1982. Since the service conditions of the petitioner remained un-changed after his transfer, respondent No. 1 was absolved of all liabilities under section 25F of the said Act qua the petitioner. For ready reference provisions of section 25FF of the Industrial Disputes Act, 1947 can be quoted with advantage :—

Compensation to workmen in case of transfer of undertaking :— Where the ownership or management of an undertaking is transferred, whether by agreement or by operation of law, from the employer in relation to that undertaking to a new employer, every workman who has been in continuous service for not less than one year in that undertaking immediately before such transfer shall be entitled to notice and compensation in accordance with the provisions of section 25-F as if the workman had been retrenched :

Provided that nothing in this section shall apply to a workman in any case where there has been a change of employers by reason of the transfer, if—

(a) .....

(b) the terms and conditions of service applicable to the workman after such transfer are not in any way less favourable to the workman than those applicable to him immediately before the transfer ; and

9. The case of the respondent No. 2 is that after his transfer to the Society denovo appointment of the petitioner was made and as such, since the petitioner had not put in 240 days of actual work with the respondent, his termination does not attract the provisions of section 2(oo) of the said Act and so, compliance with the mandatory provisions of section 25F of the said Act was not necessary. This contention is devoid of any force, because the Registrar Co-operative Society ordered for the transfer of the petitioner on the same terms and conditions with the mini bank, which respondent No. 2 is. It is immaterial that the respondent number 2 choose to make any denovo appointment of the petitioner, his conditions of appointment could not have been altered by respondent No. 2 unilaterally without concurrence of the Registrar Co-operative Societies, Haryana, who has got supervisory control over all Societies, Federations, registered under the Haryana Co-operative Societies Act, 1984.

10. The Secretary of the Society, who has appeared in the Court as MW-2 stated that services of the petitioner were dispensed with on 18th May, 1983, because the total profit to the Society from the sale of goods was Rs. 1207, whereas Society had to pay a sum of Rs. 3000 as salary to the petitioner, so the running of the retail outlets was not a good going for the respondent and the Society could ill afford to incur further losses. This part of his testimony remains unassailed. Under these circumstances, there is no difficulty in holding that the retail outlets, at which the petitioner was posted after his transfer to the respondent Society was incurring heavy losses, so much so, that the retail outlets was not even able to show profit equal to the salary of the petitioner. These retail outlets have been opened by the Government to make available essential commodities to the rural people at reasonable rates but there functioning is so slovenly that they hardly serve the purpose, for which, they were intended to serve. This Court will refrain from delving deep into the reasons for the losses such societies incur but at the moment it is faced with the peculiar situation where an employee who has completed more than 240 days of actual work with the respondent was summarily dismissed from service without complying with the mandatory provisions of section 25F of the said Act, because no prior notice or retrenchment compensation was paid to him. Reinstating the petitioner would amount to saddling the Society with an unwanted employee, who will have to be paid wages without any work being done by him, though the order of termination is unquestionably unsustainable being violative of the mandatory provisions of section 25F of the said Act. Normal rule in case, the order of termination is displaced is to reinstate the aggrieved employee, but in the present case, facts are very peculiar and as such, to make a departure from the normal rule would not be unjustified. Under these circumstances, in lieu of reinstatement, I award a sum of Rs. 5,000/- as compensation to the petitioner to enable him to make a fresh start in life. The reference is answered and returned accordingly with no order as to cost.

Dated the 31st July, 1986.

B. P. JINDAL,  
Presiding Officer,  
Labour Court, Rohtak,  
Camp Court, Sonapat.



Endorsement No. 46-84/1185, dated 5th September, 1986.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,

Labour Court, Rohtak.  
Camp Court, Sonapat.

KULWANT SINGH,

Secretary to Government, Haryana,  
Labour and Employment Department.

श्रम विभाग

आदेश

दिनांक 24 अक्टूबर, 1986

सं० ओ० वि० सोनीपत/70-86/40019.—चूंकि हरियाणा के राज्यपाल की राय है कि हरियाणा, वनस्पति एण्ड जनरल मिल्स, गोविन्द पुरी डा० कृष्णली सोनीपत, के श्रमिक श्री विरेश ठाकुर, पुत्र श्री संगम ठाकुर, गांव व डा० इफदाबा जि० गोपालगंज (बिहार) तथा उसके प्रबन्धकों के बीच इसमें इसके बाद लिखित मामले में कोई औद्योगिक विवाद है;

और चूंकि हरियाणा के राज्यपाल विवाद को न्यायनिर्णय हेतु निर्दिष्ट करना वांछनीय समझते हैं?

इसलिये, अब, औद्योगिक विवाद अधिनियम, 1947 की धारा 10 की उपधारा (1) के खण्ड (ग) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुये हरियाणा के राज्यपाल इस के द्वारा सरकारी अधिसूचना सं० 9641-1-श्रम 78/32573, दिनांक 6 नवम्बर, 1970 के साथ गठित सरकारी अधिनियम की धारा 7 के अधीन गठित श्रम न्यायालय, रोहतक को विवादग्रस्त या उससे सुसंगत या उससे सम्बन्धित नीचे लिखा मामला न्यायनिर्णय एवं पंचाट तीन मास में देने हेतु निर्दिष्ट करते हैं जो कि उक्त प्रबन्धकों तथा श्रमिकों के बीच या तो विवादग्रस्त मामला है या उक्त विवाद से सुसंगत अथवा सम्बन्धित है:—

क्या श्री विरेश ठाकुर की सेवा समाप्त की गई है या उसने स्वयं गैर हाजिर होकर नौकरी से पूर्णहणाधिकार (लियन) खोया है ? इस बिन्दु पर निर्णय के फलस्वरूप वह किस राहत का हकदार है:

सं० ओ० वि० भिवानी/90-86/40026.—चूंकि हरियाणा के राज्यपाल की राय है कि सचिव, हरियाणा स्कूल शिक्षा बोर्ड भिवानी, के श्रमिक श्री राम कुमार, पुत्र श्री जागे राम, गांव शामिलो कला, जिला जींद, तथा उसके प्रबन्धकों के बीच इसमें इसके बाद लिखित मामले में कोई औद्योगिक विवाद है;

और चूंकि हरियाणा के राज्यपाल विवाद को न्याया निर्णय हेतु निर्दिष्ट करना वांछनीय समझते हैं;

इसलिये अब, औद्योगिक विवाद अधिनियम, 1947 की धारा 10 की उपधारा (1) के खण्ड (ग) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुये हरियाणा के राज्यपाल इस के द्वारा सरकारी अधिसूचना सं० 9641-1-श्रम-78/32573, दिनांक 6 नवम्बर, 1970 के साथ गठित सरकारी अधिनियम की धारा 7 के अधीन गठित श्रम न्यायालय, रोहतक को विवादग्रस्त या उससे सुसंगत या उससे सम्बन्धित नीचे लिखा मामला न्यायनिर्णय एवं पंचाट तीन मास में देने हेतु निर्दिष्ट करते हैं जो कि उक्त प्रबन्धकों तथा श्रमिकों के बीच या तो विवादग्रस्त मामला है या उक्त विवाद से सुसंगत अथवा सम्बन्धित मामला है:—

क्या श्री राम कुमार की सेवाओं का समापन न्यायोचित तथा ठीक है? यदि नहीं, तो वह किस राहत का हकदार है?

सं० ओ० वि०/गुडगांव/92-86/40033.—चूंकि हरियाणा के राज्यपाल की राय है कि मै० एगजेक्ट टेक्नोमेट प्रा० लि०, दोलताबाद, गुडगांव के श्रमिक श्री राजपाल, पुत्र श्री बलवन्त, भीम नगर, गुडगांव तथा उसके प्रबन्धकों के मध्य इसमें इसके बाद लिखित मामले में कोई औद्योगिक विवाद है;

और चूंकि हरियाणा के राज्यपाल विवाद को न्यायनिर्णय हेतु निर्दिष्ट करना वांछनीय समझते हैं;

इसलिये, अब, औद्योगिक विवाद अधिनियम, 1947 की धारा 10 की उपधारा (1) के खण्ड (ग) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुये हरियाणा के राज्यपाल इसके द्वारा सरकारी अधिसूचना सं० 5415-3-श्रम-68/15254, दिनांक 20 जून,



1978 के साथ पढ़ते हुए अधिसूचना सं० 11495-जी-श्रम-57/11245, दिनांक 7 फरवरी, 1958 द्वारा उक्त अधिसूचना की धारा 7 के अधीन गठित श्रम न्यायालय, फरीदाबाद को विवादग्रस्त या उससे सुसंगत या उससे सम्बन्धित नीचे लिखा मामला न्यायनिर्णय एवं पंचाट तीन मास में देने हेतु निर्दिष्ट करते हैं जोकि उक्त प्रबन्धकों तथा श्रमिक के बीच या तो विवादग्रस्त मामला है या विवाद से सुसंगत अथवा सम्बन्धित मामला है:—

क्या श्री राजपाल की सेवाओं का समापन न्यायोचित तथा ठीक है ? यदि नहीं, तो वह किस राहत का हकदार है ?

सं० ओ० वि०/भिवानी/140-83/40040.—चूंकि हरियाणा के राज्यपाल की राय है कि परिवहन आयुक्त, हरियाणा, चण्डीगढ़, (2) जनरल मैनेजर, हरियाणा रोडवेज जी०, के श्रमिक श्री रामफल कन्डक्टर, पुत्र श्री हरीचंद गांव व डा० डिगौना, तहसील व जि० जी० तथा उसके प्रबन्धकों के मध्य इसमें इसके बाद लिखित मामले में कोई औद्योगिक विवाद है;

और चूंकि हरियाणा के राज्यपाल विवाद को न्यायनिर्णय हेतु निर्दिष्ट करना वांछनीय समझते हैं ;

इसलिए, अब, औद्योगिक विवाद अधिनियम, 1947 की धारा 10 की उपधारा (1) के खण्ड (ग) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुये हरियाणा के राज्यपाल इसके द्वारा सरकारी अधिसूचना सं० 3(44)84-3-श्रम, दिनांक 18 अप्रैल, 1984 द्वारा उक्त अधिसूचना की धारा 7 के अधीन गठित श्रम न्यायालय, अम्बाला को विवादग्रस्त या उससे सम्बन्धित नीचे लिखा मामला न्यायनिर्णय एवं पंचाट तीन मास में देने हेतु निर्दिष्ट करते हैं जोकि उक्त प्रबन्धकों तथा श्रमिक के बीच या तो विवादग्रस्त मामला है या विवाद से सुसंगत अथवा सम्बन्धित मामला है:—

क्या श्री रामफल की सेवाओं का समापन न्यायोचित तथा ठीक है ? यदि नहीं, तो वह किस राहत का हकदार है ?

दिनांक 29 अक्तूबर, 1986

सं० ओ० वि०/कुरुक्षेत्र/19-86/40734.—चूंकि हरियाणा के राज्यपाल की राय है कि दी शाहबाद को-ओपरेटिव शहर मिलज लि०, शाहबाद मारकण्डा, के श्रमिक श्री गुरचरन सिंह, मार्फत श्री मधु सुदन शरण कोशिश लठमारा स्ट्रीट जगाधरी (अम्बाला) तथा उसके प्रबन्धकों के मध्य इसमें इसके बाद लिखित मामले में कोई औद्योगिक विवाद है;

और चूंकि हरियाणा के राज्यपाल को न्यायनिर्णय हेतु निर्दिष्ट करना वांछनीय समझते हैं ;

इसलिए, अब, औद्योगिक विवाद अधिनियम, 1947 की धारा 10 की उपधारा (1) के खण्ड (ग) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुये हरियाणा के राज्यपाल इसके द्वारा सरकारी अधिसूचना सं० 3(44)84-3-श्रम, दिनांक 18 अप्रैल, 1984 द्वारा उक्त अधिसूचना की धारा 7 के अधीन गठित श्रम न्यायालय, अम्बाला को विवादग्रस्त या उससे सम्बन्धित नीचे लिखा मामला न्यायनिर्णय एवं पंचाट तीन मास में देने हेतु निर्दिष्ट करते हैं जोकि उक्त प्रबन्धकों तथा श्रमिक के बीच या तो विवादग्रस्त मामला है या विवाद से सुसंगत अथवा सम्बन्धित मामला है:—

क्या श्री गुरचरन सिंह की सेवाओं का समापन न्यायोचित तथा ठीक है ? यदि नहीं, तो वह किस राहत की हकदार है ?

सं० ओ० वि०/कुरुक्षेत्र/18-86/40741.—चूंकि हरियाणा के राज्यपाल की राय है कि मै० दी शाहबाद को-ओपरेटिव शहर मिलज लि०, शाहबाद मारकण्डा (कुरुक्षेत्र) के श्रमिक श्री अश्वनी कुमार मार्फत श्री मधु सुदन शरण कोशिश, लठमारा स्ट्रीट, जगाधरी (अम्बाला) तथा उसके प्रबन्धकों के मध्य इसमें इसके बाद लिखित मामले में कोई औद्योगिक विवाद है ;

और चूंकि हरियाणा के राज्यपाल को न्यायनिर्णय हेतु निर्दिष्ट करना वांछनीय समझते हैं ;

इस लिए, अब, औद्योगिक विवाद अधिनियम, 1947 की धारा 10 की उपधारा (1) के खण्ड (ग) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुये हरियाणा के राज्यपाल इसके द्वारा सरकारी अधिसूचना सं० 3(44)84-3-श्रम, दिनांक 18 अप्रैल 1984 द्वारा उक्त अधिसूचना की धारा 7 के अधीन गठित श्रम न्यायालय, अम्बाला को विवादग्रस्त या उससे सम्बन्धित नीचे लिखा मामला न्यायनिर्णय एवं पंचाट तीन मास में देने हेतु निर्दिष्ट करते हैं जो कि उक्त प्रबन्धकों तथा श्रमिक के बीच या तो विवादग्रस्त मामला है या विवाद से सुसंगत अथवा सम्बन्धित मामला है:—

क्या श्री अश्वनी कुमार, की सेवाओं का समापन न्यायोचित तथा ठीक है ? यदि नहीं, तो वह किस राहत का हकदार है ?

आर० एस० अग्रवाल,  
उप सचिव, हरियाणा सरकार,  
श्रम विभाग।